

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Exigent Landscaping, LLC,

Debtor.

Case No. 23-46912-TJT
Chapter 7
Hon. Thomas J. Tucker

_____ /

MOTION FOR ORDER APPROVING COMPROMISE

Jurisdiction

1. Exigent Landscaping, LLC d/b/a Exigent Design and Build (“Debtor”) filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code on August 7, 2023 (“Petition Date”).
2. The Chapter 11 case was converted to a Chapter 7 on February 12, 2024 (ECF No. 152).
3. The Court has jurisdiction over this Chapter 7 bankruptcy case. *See* 28 U.S.C. § 1334. The case, and all related proceedings and contested matters, have been referred to this bankruptcy court for determination. *See* 28 U.S.C. § 157(a); LR 83.50 (E.D. Mich.).
4. This is a core proceeding over which this Court has authority to enter a final order. *See* 28 U.S.C. § 157(b)(2)(A) (matters concerning administration of the estate) and 28 U.S.C. § 157(b)(2)(O) (other proceedings affecting the liquidation of assets of the estate).

Background

5. On December 30, 2024, the Trustee initiated an adversary proceeding (“Adversary”) by filing a complaint against SCP Distributors, LLC (“SCP”) (Adv. Pro. 24-04445, ECF No. 1).

6. In the Adversary, the Trustee alleges that the Debtor made payments totaling \$167,210.88 to SCP within 90 days of the bankruptcy filing and payments totaling \$47,912.99 to SCP after the Petition Date.

7. The Trustee sought to avoid and recover the transfers from SCP under 11 U.S.C. §§ 547, 549 and 550.

8. Discovery has revealed that the post-petition transfers were authorized by the Court and, as such, are not avoidable by the Trustee and that SCP provided subsequent new value that reduces the Trustee’s preference claims to approximately \$32,000.

9. SCP has offered to pay a lump sum of \$25,000 to resolve the estate’s claims in the Adversary.

Legal basis for settlement

10. Bankruptcy Rule 9019(a) provides, in pertinent part, that “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement.”

11. Settlements are reviewed under the “business judgment rule,” which creates a presumption in favor of the Trustee. *See In re Woodberry*, 629 B.R. 239, 243 (Bankr. E.D. Mich. 2021) (citations omitted).

12. Compromises expedite the administration of the case, reduce administrative costs, and are favored in bankruptcy. *See In re McInerney*, 528 B.R. 684, 687 (Bankr. E.D. Mich. 2014); *In re Woodberry* at 629 B.R. at 243 (citations omitted).

13. In determining whether to approve a settlement, the bankruptcy court must apprise itself of the underlying facts and make an independent judgment as to whether the compromise is “fair and equitable.” *Reynolds v. Comm’r*, 861 F.2d 469, 473 (6th Cir.1988) (emphasis added).

14. The four factors that courts generally consider in evaluating whether a compromise is “fair and equitable” are:

(a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views.

In re McInerney, 528 B.R. at 689 (citations omitted).

15. Based on the defenses available to SCP as noted above, the risks and costs of further litigation, and the reasonableness of the offer, the Trustee recommends that this Court approve the proposed compromise.

Request for Relief

The Trustee respectfully requests that this Court enter an order in the form attached and grant such further relief as this court deems appropriate.

Steinberg Shapiro & Clark

/s/ Tracy M. Clark (P60262)
Attorney for Trustee
25925 Telegraph Rd., Suite 203
Southfield, MI 48033
(248) 352-4700
clark@steinbergshapiro.com

Date: June 23, 2025

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Exigent Landscaping, LLC,

Debtor.

Case No. 23-46912-TJT
Chapter 7
Hon. Thomas J. Tucker

ORDER APPROVING COMPROMISE

This matter came before the Court upon the Trustee's Motion for Order Approving Compromise ("Motion"; ECF No. ____). Required parties were served with the Motion and with notice of the deadline for objections. No objections were timely filed, and a certification of no response has been filed. The Court has reviewed the Motion and other pertinent pleadings and is advised in the premises.

IT IS ORDERED that the proposed compromise of the bankruptcy estate's claims against SCP Distributors, Inc. ("SCP") in Adversary Proceeding 24-04445 for a lump sum payment of \$25,000 (the "Settlement Amount") is approved.

IT IS FURTHER ORDERED that SCP must pay the Settlement Amount to "Mark H. Shapiro, Trustee" and deliver to Tracy M. Clark, Esq. at Steinberg Shapiro & Clark, 25925 Telegraph Rd., Suite 203, Southfield, Michigan 48033 within 20 days after entry of this Order.

IT IS FURTHER ORDERED that the Trustee will dismiss Adversary Proceeding 24-04445.

IT IS FURTHER ORDERED that SCP may amend its Proof of Claim no. 34 to include the Settlement Amount pursuant to 11 U.S.C. § 502(h).

IT IS FURTHER ORDERED that the Court reserves jurisdiction to enforce the terms of the settlement and this order.

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Exigent Landscaping, LLC, xx-xxx5176
dba Exigent Design and Build
13246 23 Mile Road
Shelby Township, MI 48315

Case No. 23-46912-TJT
Chapter 7
Hon. Thomas J. Tucker

Debtor.

/

**21 DAY NOTICE OF TRUSTEE'S MOTION
FOR ORDER APPROVING COMPROMISE**

Chapter 7 Trustee Mark H. Shapiro seeks to compromise the claims asserted in against SCP Distributors LLC ("SCP") in adversary proceeding 24-04445. In the adversary proceeding, the Trustee alleges that the Debtor made payments totaling \$167,210.88 to SCP within 90 days of the bankruptcy filing and payments totaling \$47,912.99 to SCP after the bankruptcy petition date. The Trustee sought to avoid and recover the transfers under 11 U.S.C. §§ 547, 549 and 550. Discovery has revealed that the post-petition transfers were authorized by the Court and, as such, are not avoidable by the Trustee and that SCP provided subsequent new value that reduces the Trustee's preference claims to approximately \$32,000. Without further developing its defenses, SCP has offered to pay a lump sum of \$25,000 to resolve the estate's claims. Based on the defenses available to SCP, the risks and costs of further litigation, and the reasonableness of the offer, the Trustee has asked the Court to approve the proposed compromise.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to approve the settlement, or if you want the Court to consider your views on the settlement, within 21 days from the date of this notice, you or your attorney must:

File with the Court a written objection or request for hearing, explaining your position at:¹

United States Bankruptcy Court
211 West Fort St.
Detroit, Michigan 48226

If you mail your objection or request for hearing to the Court for filing, you must mail it early enough so the court will **receive** it before the 21-day period expires. All attorneys are required to file pleadings electronically.

You must also send a copy to:

Tracy M. Clark, Esq.
Steinberg Shapiro & Clark
25925 Telegraph Rd., Suite 203
Southfield, MI 48033

If an objection or request for hearing is timely filed, the clerk will schedule a hearing and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Steinberg Shapiro & Clark

/s/ Tracy M. Clark (P60262)
Attorney for Trustee
25925 Telegraph Rd., Suite 203
Southfield, MI 48033
(248) 352-4700
clark@steinbergshapiro.com

Date: June 23, 2025

¹Objection or request for hearing must comply with F.R. Civ.P. 8(b), (c) and (e).

UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE

I certify that on June 23, 2025, I served copies as follows:

Document Served: 21 Day Notice of Trustee's Motion for Order
Approving Compromise

Served Upon: All creditors with timely filed and allowed proofs of
claim (*See* L.B.R. 2002-2) (see attached list)

Method of Service: First Class Mail

/s/ Christine T. Leach, Legal Assistant
Steinberg Shapiro & Clark
Attorneys for Trustee
25925 Telegraph Rd., Suite 203
Southfield, MI 48033
(248) 352-4700
cleach@steinbergshapiro.com

Claimant
23 Mile Storage, LLC c/o Tommy Haji 965 Wanda Suite E Detroit, MI 48226
24 Capital 1545 Route 202 Suite 101 NY 10907
24 Capital, LLC 936 S.W. 1st Ave. Ste.271 Miami, FL 33130
AUTO OWNERS INSURANCE COMPANY INC PO BOX 30660 LANSING, MI 48909
Alex Boyd and Rebecca Boyd c/o John F. Harrington 30500 Van Dyke Ave Ste 200 Warren, MI 48093
Ally Bank c/o AIS Portfolio Services, LLC 4515 N. Santa Fe Ave. Dept. APS Oklahoma City, OK 73118
AmeriCredit Financial Services, Inc. dba GM Financial P O Box 183853 Arlington, TX 76096
American Express National Bank c/o Becket and Lee LLP PO Box 3001 Malvern PA 19355-0701
Angela Londono, a/k/a Angela Serrano c/o David M. Eisenberg, Esq. 28400 Northwestern Hwy., 2nd Floor Southfield, MI 48034
Aqua Haul 2992 Gramer Rd Webberville, MI 48892-2992

Maria Ashkar & Ayham Ashkar c/o Freddy Sackllah 23607 Farmington Rd. Farmington, MI 48336
BMO Bank N.A. 1625 W. Fountainhead Pkwy Tempe, AZ 85282
Barajas Enterprise 1217 Chandler Ave. Lincoln Park, MI 48146
Bill 6220 America Center Dr. Suite 100 San Jose, CA 95002
CONSUMERS ENERGY COMPANY Attn: Legal Dept One Energy Plaza Jackson, MI 49201
Calambas Pool Service Hector Orozco 2654 Pearl St Detroit MI 48209
Caterpillar Financial Services Corporation James A. Plemmons Dickinson Wright PLLC 500 Woodward Ave., Suite 4000 Detroit, MI 48226
Changhua Wang and Bin He c/o Doron Yitzchaki, Esq. Dickinson Wright PLLC 350 S. Main Street, Suite 300 Ann Arbor, MI 48104
Citizens Bank, N.A. c/o Michael I. Zousmer, Esq. Zousmer Law Group PLC 4190 Telegraph Rd., Ste. 3000 Bloomfield Hills, Michigan 48302
Congil Truck Lines Ltd. 6216 Westminster Dr London, ON N6P 1R2

Connelly Crane Rental Corp 12635 Marion Redford, MI 48239
Daniel B. Hagy 4582 Lakeshore Drive Fort Gratiot, MI 48059-4582
Daniel Carter c/o John F. Harrington 30500 Van Dyke Ave Ste 200 Warren, MI 48093
EBF Holdings, LLC d/b/a Everest Business Funding c/o Michael W. Davis, Esq. 601 S. Figueroa Street, Suite 2130, Los Angeles, CA 90017
ERC Specialists, LLC 560 E Timpanogos Circle Orem, UT 84097
Genniver Jameel 7178 Lasher Road Bloomfield Hills, MI 48301
IOU Central, Inc. d/b/a IOU Financial, Inc. c/o Aubrey Thrasher, LLC 12 Powder Springs Street Suite 240 Marietta, GA 30064
Internal Revenue Service Centralized Insolvency Operation P.O. Box 7346 Philadelphia, PA 19101-7346
J & H Transportation Inc 39999 Garfield Rd Clinton Township, MI 48038
Jennifer Hernandez 49145 Cranbrook Drive Macomb, MI 48044
Kelsey Acho 32721 White Oaks Trail Franklin, MI 48025

MacAllister Machinery Co., Inc c/o CRF Solutions PO Box 1389 Simi Valley, CA 93062
Malek Shamaya 19429 Gold River Macomb, MI 48044
Maria Ashkar 47681 Manorwood Drive Northville, MI 48168
Matt Decoster 37676 Huron Pointe Drive Harrison Township, MI 48045
Mohamed Saad c/o Osipov Bigelman, P.C. 20700 Civic Center Dr., Ste. 420 Southfield, MI 48076
Pawnee Leasing Corporation c/o Ali 654 Amherst Road Suite 320 Sunderland, MA 01375
Ray Wiegand's Nursery, Inc. 47747 Romeo Plank Rd Macomb, MI 48044
Rock Bottom Stone Supply PO Box 190081 Burton, MI 48519
Ryan Kelly 8884 Morning Mist Dr. Clarkston, MI 48348
SCP Distributors, LLC c/o Scott R. Cheatham Adams and Reese LLP 701 Poydras Street, Suite 4500 New Orleans, LA 70139
State of Michigan Unemployment Insurance Agency 3024 W. Grand Blvd., Ste 12-650 Tax Office Detroit, MI 48202

Stephanie Wells 19489 Waltham Rd. Beverly Hills, MI 48025
The Hills of Lone Pine Association c/o Norman Orr 201 West Big Beaver Suite 600 Troy, MI 48084
U.S. Bank National Association Bankruptcy Department PO Box 108 Saint Louis MO 63166-0108
U.S. Small Business Administration 2 North Street, Suite 320 Birmingham, AL 35203
Western Equipment Finance, Inc. P.O. Box 640 Devils Lake, ND 58301